



UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER

UPTON, C

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 11/01/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

661375

Applicant(s)

Selwyn

Examiner

Upton

Group Art Unit

1724

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/6/01
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-32 is/are pending in the application.
- Of the above claim(s) 21-29 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-20 and 30-32 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. Applicant's election without traverse of Group I, claims 1-20 and 30-32 in Paper No. 9 is acknowledged.

2. Claims 1-20 and 30-32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation of positioning of a grate and outlet at any location within the periphery is functional, and should be recited with a positive structural basis.

It is noted that claim 9, reciting the outlet extending from a side wall, depends from claim 8, which recites the outlet extending from a low point. While claim 9 is not incompatible with claim 8, as an outlet may be extending from the side in a lower point, it appears that both claims may have been intended to depend from claim 7, as in similar claims 13 and 14 both depend from claim 4.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-5, 13-20, 30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT application WO 80/01701.

The PCT application discloses a drain receptacle with an insert permitting positioning of an outlet at any position within the perimeter (see page 2, lines 28-35), as claimed. With respect to claim 14, note that figure 1 discloses such a side wall outlet.

5. Claims 1-5, 13-20, 30 and 32 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Dallmer, O'Brien, or British patents 22269/01, 22403/02 or 13586/03.

The Dallmer, O'Brien and '01 British patents disclose drain receptacles with inserts having offset inlets, which are obviously capable of performing the function of permitting positioning of an outlet at any position within the perimeter, as claimed. The '02 and '03 British patents disclose drain receptacles with plural offset inlets, also obviously capable of performing the function.

6. Claims 6-12 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 5 above, and further in view of Sisk or Decker.

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Claim 6 and its dependent claims differ from claim 5 in recitation of passages between the bearing surface and the inlet. It is well known to provide such passages in a drain receptacle, as exemplified by Sisk and Decker. It would therefore have been obvious for one of ordinary skill in the art to add such passages to the drains of the references applied to claim 5, to insure better drainage.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over British patent 16588/93.

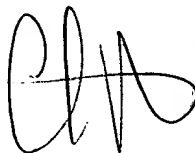
The '93 British patent discloses a drain receptacle having a flow guide which obviously allows the positioning of an inlet at any position, as claimed.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Other references of interest include Graffis, Logsdon and Sondrup. The references cited in the PCT Search Report, with the exception of the AU reference, have been made of record.

9. Copies of UK patent 1208833, cited in the specification, and AU 41010/97, cited in the PCT search report, are requested, so that they may be considered.

10. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.



**CHRISTOPHER UPTON
PRIMARY EXAMINER**